

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	
REASONABLENESS OF THE DEMAND SIDE)	CASE NO.
MANAGEMENT PROGRAMS AND RATES OF)	2017-00097
KENTUCKY POWER COMPANY)	

ORDER

This matter arises upon the motion of Wal-Mart Stores East, LP and Sam's East, Inc. (collectively "Walmart") for rehearing of the Commission's April 12, 2017 Order denying Walmart's March 24, 2017 motion for full intervention. The Commission denied Walmart's motion, finding that Walmart, as a commercial customer, had only a generalized interest in Kentucky Power Company's ("Kentucky Power") demand-side management ("DSM") programs and that such interest was too remote to justify intervention. The Commission also noted that the proceeding arose at the Commission's initiation to review Kentucky Power's increased DSM expenditures, and that the increased spending was due to a non-unanimous settlement agreement, to which Walmart was not a party, in Case No. 2012-00578.¹

In its motion for rehearing, Walmart disagrees with the Commission's determination that Walmart lacked the necessary interest in the DSM programs to warrant intervention. Walmart asserts that it has a specific interest in this case because it is

¹ Case No. 2012-00578, *Application of Kentucky Power Company for (1) a Certificate of Public Convenience and Necessity Authorizing the Transfer to the Company of an Undivided Fifty Percent Interest In the Mitchell Generating Station and Associated Assets; (2) Approval of the Assumption by Kentucky Power Company of Certain Liabilities In Connection with the Transfer of the Mitchell Generating Station; (3) Declaratory Rulings; (4) Deferral of Costs Incurred In Connection With the Company's Efforts to Meet Federal Clean Air Act and Related Requirements; and (5) All Other Required Approvals and Relief* (Ky. PSC Oct. 7, 2013).

dedicated to its own investment in DSM programs and energy efficiency, and is concerned about the level of Kentucky Power's DSM investment level and programs, as they could have a direct and substantial impact on Walmart's decision to invest in its own DSM program. Walmart also asserts that, because of its unique perspective as a national presence with experience in DSM investments, it could present facts that could assist the Commission in developing the record in this case. Walmart also asserts that this unique perspective is not represented by any other party in this proceeding.

Walmart states that it is irrelevant to the standards for intervention that the Commission initiated this case on its own motion. Walmart also asserts that to the extent that the Commission's decision to deny intervention rested upon prior participation in Case No. 2012-00578, it is concerned that due process rights of countless parties could be restricted in future Commission cases.

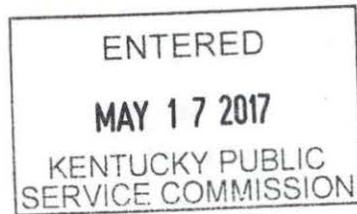
The Commission finds that Walmart's motion for rehearing should be denied. As the Commission noted in its April 12, 2017 Order, Walmart may have a generalized interest in the DSM rates of Kentucky Power, but it offered no factual basis that it had a specific interest in the investigation. Walmart, in its motion for rehearing, provided no facts to the Commission that added to what Walmart submitted in its initial request for intervention. Absent any additional facts from Walmart to support its argument that it meets the standards for intervention enumerated in 807 KAR 5:001, Section 4(11), the Commission will not reverse its decision to deny Walmart's intervention.

The Commission's decision to deny Walmart intervention is based upon Walmart's failure to meet the standards of 807 KAR 5:001, Section 4 (11), and is not based upon the fact that Walmart was not a party in Case No. 2012-00578. To the extent that participation in Case No. 2012-00578 is a factor considered in granting intervention in this

proceeding, it is only so in that denying intervention to parties to the settlement agreement could involve those parties' rights to due process if the Commission were to ultimately modify the settlement agreement to which they were parties.

Based upon the foregoing, IT IS HEREBY ORDERED that Walmart's motion for rehearing is denied.

By the Commission



ATTEST:


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